

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of

DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS,

Complainant,

and

EXCLUSIVE ISLAND ROOFING,

Respondent.

CASE NO. OSH 2010-35

ORDER NO. 422

PRETRIAL ORDER

PRETRIAL ORDER

Pursuant to the initial conference in this matter held by the Hawaii Labor Relations Board (Board) by conference call on March 1, 2011 and attended by Lawrence H. Nakano, Deputy Attorney General, for Complainant, and David Allen, for Respondent, IT IS HEREBY ORDERED THAT:

A. The issues to be determined at trial are:

1. Citation 1, Item 1: 29 CFR 1926.501(b)(10)

Whether the characterization as "Serious" and the associated penalty of \$375.00 of Citation 1, Item 1, resulting from Inspection No. 313079535, was valid and proper.

Citation 1, Item 1 alleged:

29 CFR 1926.501(b)(10) was violated because:

Two employees working on the roof of a residential home were not protected from fall hazards by any means of fall protection.

2. Whether the Respondent established the affirmative defense of employee misconduct.

- B. The deadline for the parties' final naming of witnesses is **April 4, 2011**. Each party shall provide a list of the names of witnesses it plans to call at trial, along with each witness's addresses and the general subject to which the witness will testify, to the other party and to the Board by this date.
- C. The parties may engage in discovery without prior motion or showing of good cause. The discovery cutoff date is **May 9, 2011**. The discovery cut-off is the date by which all responses to written discovery, including requests for admissions, shall be due and by which all depositions shall be concluded. The parties are advised to initiate discovery requests and notice depositions sufficiently in advance of the cut-off date to comply with this requirement.
- D. Trial in this matter is scheduled for **June 6, 2011 at 9:00 a.m.** in the Board's hearing room located at 830 Punchbowl Street, Room 434, Honolulu, Hawaii, 96813. The trial may be continued by the Board until completed.
- E. Hereafter, this Pretrial Order shall control the course of proceedings and may not be amended except by consent of the parties and the Board, or by order of the Board.

DATED: Honolulu, Hawaii, March 2, 2011.

HAWAII LABOR RELATIONS BOARD



JAMES B. NICHOLSON, Chair



SARAH R. HIRAKAMI, Member

NOTICE TO EMPLOYER

You are required to post a copy of this Order at or near where citations under the Hawaii Occupational Safety and Health Law are posted at least five working days prior to the trial date. Further, you are required to furnish a copy of this Order to a duly recognized representative of the employees, if any, at least five working days prior to the trial date.

Copies sent to:

Lawrence H. Nakano, Deputy Attorney General
David Allen